

10785

52645

Vol. M98 Page 3574
Vol. M97 Page 42232

NOTICE OF DEFAULT AND ELECTION TO SELL

Reference is made to that certain trust deed made by LOST RIVER LAND & CATTLE, INCORPORATED, an Oregon Corporation, as Grantor, to MOUNTAIN TITLE COMPANY OF KLAMATH COUNTY, as Trustee, in favor of THE TRUSTEES OF THE BORGES FAMILY TRUST U.A.D. OCTOBER 13, 1992, as Beneficiary, dated January 5, 1993, recorded January 29, 1993, in the Mortgage Records of Klamath County, Oregon in Vol. M93, page 2202, covering the following described real property situated in said county and state, to-wit:

See Attached Exhibit "A."

Both the beneficiary and the trustee have elected to sell the said real property to satisfy the obligations secured by said trust deed and a notice of default has been recorded pursuant to Oregon Revised Statutes 86.735(3); the default of which the foreclosure is made is grantor's failure to pay when due the following sums, and proported transfers of interest constituting defaults:

Annual installments in the amount of \$17,765.49 due on July 5, 1997, and each ~~January 5~~ ^{RSF July} thereafter.

Recording of Agreement for Easement dated April 20, 1995, by and between Lost River Land & Cattle, Inc., and Earl Martin and Shirley F. Kerns, recorded April 20, 1995, at Volume M95, page 10013, Microfilm Records of Klamath County, Oregon.

Document recorded at Volume M95, page 20895 and page 20899, Microfilm Records of Klamath County, Oregon.

Document recorded at Volume M97, page 2898 and page 20902, Microfilm Records of Klamath County, Oregon.

Bargain and Sale Deed from Lost River Land & Cattle, Inc., to Nicholas Grumbine, recorded at Volume M97 Page 20893, Deed Records of Klamath County, Oregon.

Bargain and Sale Deed from Lost River Land & Cattle, Inc., to Nicholas Grumbine, recorded at Volume M97 Page 20896, Deed Records of Klamath County, Oregon.

Bargain and Sale Deed from Lost River Land & Cattle, Inc., to Nicholas Grumbine, recorded at Volume M97 Page 20900, Deed Records of Klamath County, Oregon.

Trust Deed dated April 18, 1997, wherein the Grator is Lost River Land and Cattle, Inc., Trustee is Aspen Title & Escrow, Inc., and Beneficiary is Clifton H. McMillan III and Patsy H. McMillan, Trustees of the Clifton H. McMillan III Trust Dated December 20, 1991, recorded at Volume M97, page 11893, Microfilm Records of Klamath County, Oregon.

Beneficiary has received lapse notice on insurance policy which will constitute a default on the terms of said trust deed.

NOTICE OF DEFAULT
AND ELECTION TO SELL

Richard Fairclo
Attorney at Law
280 Main Street
Klamath Falls OR 97601

Rerecorded to correct annual installment date.

'98 FEB -4 AM 1:57

'97 DEC 30 A 9:23

30-15 RE

By reason of said defaults, the beneficiary has declared all sums owing on the obligation secured by said trust deed immediately due and payable, said sums being the following, to-wit:

\$196,416.34 plus interest in the amount of \$43.05 per day from August 21, 1996.

WHEREFORE, notice hereby is given that the undersigned trustee will on May 21, 1998, at the hour of 10:00 o'clock, A.M., in accord with the standard of time established by ORS 187.110, at front steps of Klamath Falls Post Office, 317 South Seventh, in the City of Klamath Falls, County of Klamath, State of Oregon, sell at public auction to the highest bidder for cash the interest in the said described real property which the grantor had or had power to convey at the time of the execution by him of the said trust deed, together with any interest which the grantor or his successors in interest acquired after the execution of said trust deed, to satisfy the foregoing obligations thereby secured and the costs and expenses of sale, including a reasonable charge by the trustee. Notice is further given that any person named in ORS 86.753 has the right, at any time prior to five days before the date last set for the sale, to have this foreclosure proceeding dismissed and the trust deed reinstated by payment to the beneficiary of the entire amount then due (other than such portion of the principal as would not then to be due had no default occurred) and by curing any other default complained of herein that is capable of being cured by tendering the performance required under the obligation or trust deed, and in addition to paying said sums of tendering the performance necessary to cure the default, by paying all costs and expenses actually incurred in enforcing the obligation and trust deed, together with trustee's and attorney's fees not exceeding the amounts provided by said ORS 86.753, and amounts, if any, for insurance paid by beneficiaries.

In construing this notice, the masculine gender includes the feminine and the neuter, the singular includes the plural, the word "grantor" includes any successor in interest to the grantor as well as any other person owing an obligation, the performance which is secured by said trust deed, and the words "trustee" and "beneficiary" include their respective successors in interest, if any.

DATED: December 23, 1997


Successor Trustee

NOTICE OF DEFAULT
AND ELECTION TO SELL

Richard Fairclo
Attorney at Law
280 Main Street
Klamath Falls OR 97601

EXHIBIT 'A'
LEGAL DESCRIPTION

3576

42284

In Township 39 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon.

Section 27: That portion of the W1/2 of E1/2 (which includes Government Lots 3 and 5) lying South of that portion conveyed to Weyerhaeuser Timber Co. by Deed recorded May 5, 1928, Deed Volume 80, page 275, Deed Records of Klamath County, Oregon, and Government Lot 4.

Section 34: Government Lots 1, 2, 3, 4, 5, 6, 7, 8 and 12

Section 35: Government Lot 1

Section 27: Beginning at a point on the center section line of Section 27, Township 39 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon, which point is common with the center section line and the Southeasterly right of way boundary of the Klamath Falls-Ashland Highway (Oregon 66) and bears South a distance of 494.0 feet, more or less, from the quarter section corner common to Section 22 and 27, Township, Range and Meridian aforesaid; thence continuing South along same center section line a distance of 2661.0 feet, more or less to the Northerly right of way boundary of the Weyerhaeuser Timber Company road (Volume 80, page 275, Deed Records of Klamath County, Oregon); thence North 55 degrees 21' East along same, a distance of 36.47 feet; thence North, parallel with the aforesaid center section line a distance of 2667.2 feet, more or less, to the Southeasterly right of way boundary of aforesaid Klamath Falls-Ashland Highway; thence South 48 degrees 08' West along same, a distance of 40.28 feet more or less, to the point of beginning, being a 30 foot strip of land for private road purposes.

EXCEPTING THEREFROM that portion conveyed to the State of Oregon, by and through its Department of Transportation, Highway Division by Deed recorded May 17, 1989 in Volume M89, page 8560, Microfilm Records of Klamath County, Oregon.

AFFIDAVIT OF MAILING TRUSTEE'S NOTICE OF SALE

STATE OF OREGON

County of Klamath

] ss.
]

I, RICHARD FAIRCLO, being duly sworn, depose and say and certify that:

At all times hereinafter mentioned I was and am now a resident of the State of Oregon, a competent person over the age of eighteen years and not the beneficiary or his successor of interest named in the attached original notice of sale given under the terms of that certain trust deed described in said notice.

I gave notice of the sale of the real property described in the attached notice of sale by mailing a copy thereof by both first class and certified mail with return receipt requested to each of the following named persons at their respective last known addresses, to-wit:

Gary Hart
Lost River Land & Cattle, Inc.
2691 Lakeshore Drive
Klamath Falls OR 97601

Nicholas Grumbine, DPM
1966 E. Chapman Av. Suite G
Fullerton CA 92831-4194

Clifton H. McMillan and Patsy H. McMillan, Trustees
of the Clinton H. McMillan III Trust Dated Dec. 20, 1991
1444 Pacific Terrace
Klamath Falls OR 97601

E. Martin Kerns
9350 Highway 66
Klamath Falls OR 97601

Arie DeGroot
Attorney at Law
303 Pine Street
Klamath Falls OR 97601

David R. Mannix
Attorney at Law
409 Pine Street
Klamath Falls OR 97601

The Fullerton Podiatry Group
1966 E. Chapman Av. Suite G
Fullerton CA 92831-4194

Said persons include (a) the grantor in the trust deed, (b) any successor in interest to the grantor whose interest appears of record or of whose interest the trustee or the beneficiary has actual notice (c) any person, including the Department of Revenue or any other state agency, having a lien or interest, subsequent to the trust deed if the lien or interest appears of record of the beneficiary has actual notice of the lien or interest, and (d) any person request notice, as required by ORS 86.785.

Each of the notices so mailed was certified to be true copy of the original notice of sale by RICHARD FAIRCLO, attorney for the trustee named in said notice; each such copy was contained in a sealed envelope, with postage thereon fully prepaid, and was deposited by me in the United States Post Office at Klamath Falls, Oregon, on December 29, 1997, as mailed with a proper form to request and obtain a return receipt and postage thereon the amount sufficient to accomplish the same. Each of said notices was mailed after the notice of default and election to sell described in said notice of sale was recorded.

Richard Fairclo
Attorney at Law
280 Main Street
Klamath Falls OR 97601

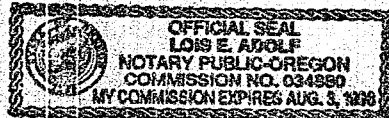
3578

42286

As used herein, the singular includes the plural, trustee includes successor trustee, and person includes corporation and any other legal or commercial entity.

SUBSCRIBED AND SWORN to before me this 27 day of December, 1997.

Lois E. Adolf
Notary Public of Oregon
My Commission expires:



STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Richard Fairclo
of December A.D., 19 97 at 9:23 o'clock A. M., and duly recorded in Vol. M97
of Mortgages on Page 3574

FEE \$30.00

INDEXED

By Kathleen G. Letch County Clerk

Richard Fairclo
Attorney at Law
280 Main Street
Klamath Falls OR 97601

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Richard Fairclo
of February A.D., 19 98 at 11:57 o'clock A. M., and duly recorded in Vol. M98
of Mortgages on Page 3574

FEE \$25.00 Re-record

By Kathleen G. Letch County Clerk